

*Senate Select Committee  
on Constitutional Amendment Implementation*



A Report on  
Amendment No. 8 - Voluntary Universal  
Pre-Kindergarten Education  
and  
Amendment No. 6 - Workplace Smoking

Tom Lee, Chair  
Ron Klein, Vice-Chair

February 19, 2003



**THE FLORIDA SENATE**  
**SELECT COMMITTEE ON CONSTITUTIONAL**  
**AMENDMENT IMPLEMENTATION**

***Location***

533 Knott Building

***Mailing Address***

404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5722

Tom Lee, *Chair*

Ron Klein, *Vice Chair*

Phil Twogood, *Staff Director*

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

February 19, 2003

The Honorable Jim King  
President  
The Florida Senate  
The Capitol, Suite 409  
Tallahassee, Florida 32399

Dear President King:

The Senate Select Committee on Constitutional Amendment Implementation, charged with the responsibility to gather information and develop recommendations, has met and thoroughly discussed issues relating to the implementation of the following constitutional amendments:

Amendment No. 8 - Voluntary Universal Pre-Kindergarten Education

Amendment No. 6 - Workplace Smoking

After taking public testimony and after due consideration, the committee respectfully submits to you the attached recommendations.

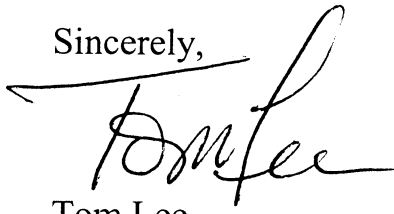
In addition to containing the committee's recommendations, the attached report for each of the above-mentioned amendments includes background information, questions and issues and the guiding principles which were used in forming our recommendations.

February 19, 2003

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The Select Committee is scheduled to meet on March 3, 2003, to discuss recommendations concerning the remaining constitutional amendments within its charge and will report promptly to you once these recommendations have been completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Lee". The signature is written in a cursive style with a long horizontal line extending from the top of the first letter.

Tom Lee  
Chairman

Attachments

# THE FLORIDA SENATE



## *Select Committee on Constitutional Amendment Implementation*

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# **Amendment No. 8**

**Voluntary Universal  
Pre-Kindergarten Education**

*Senate Select Committee on  
Constitutional Amendment Implementation*

**Amendment No. 8  
Voluntary Universal Pre-K Education**

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**Background**

The amendment was sponsored by the Committee on Pre-K and was approved by the voters of Florida in November 2002. On January 14 and February 3, 2003, the Select Committee on Constitutional Amendment Implementation received testimony on this amendment.

The January 14 meeting began with Commissioner Jim Horne from the Florida Board of Education, followed by Alex Penelas, Mayor of Miami-Dade County. Mayor Penelas was instrumental in facilitating many discussions around the state concerning the issue. The discussions led to the completion of a document entitled, “Florida Universal Pre-K Conference: A Brand New Day” which was given to all the members at the meeting.

Tim Elwell with OPPAGA then presented an update to the OPPAGA report “School Readiness Program’s Potential Not Realized with Critical Issues Unresolved.” Mr. Elwell also provided the committee with a PowerPoint presentation outlining the report findings, the issues, problems and possibilities of the current readiness system, and implications for the committee to consider.

Other speakers included: Katherine Kamiya, Executive Director for the Partnership for School Readiness, (provided an AWI flowchart), Phyllis Kalifeh, President of the Florida’s Children Forum, (provided a PowerPoint presentation along with a position paper representative of early childhood stakeholders), and Butch Cronon, President and CEO of Hand ‘n Hand Academy, representing private providers (provided a handout, “The Integral Importance of Private Sector Involvement in the Pre-Kindergarten/Early Education Structure.”)

Due to time constraints, three remaining speakers were delayed speaking on the issue until the February 3, 2003 meeting. Joy Frank, a Legislative Consultant for the Florida Association of District School Superintendents began the meeting with a presentation of the report "White Paper on Voluntary Universal Pre-kindergarten Constitutional Amendment." Ted Granger with the United Way of Florida also spoke and finally, Sarah Sprinkel, Director of Legislative Affairs with the Orange County Public Schools completed the list of speakers.

Two interested parties who submitted information for the committee's consideration but were unable to appear were Dr. Patrick Heffernan with Floridian's for School Choice and Larry Keough with the Florida Catholic Conference.

Copies of these presentations and handouts may be obtained from the Committee's web site at: [www.flsenate.gov/sci](http://www.flsenate.gov/sci)

# Questions and Issues

## **Governance**

Who will establish policies governing the existing school readiness program and new voluntary universal Pre-K program? What will be the lead agency in implementing the program? To what extent should the program administration be integrated into existing organizational structures? To what extent should program responsibility be distributed among multiple organizations? Is the current structure designed to handle the enhanced Pre-K program?

## **Time factor**

What needs to be addressed this year? What type of groundwork needs to be prepared this year? What issues should be given further study and consideration? What should be the schedule for completing any study?

## **Program Design and Standards**

In general, what should be included in the broad program design? Who should set specific program and curriculum standards? What is the role of the Department of Education? What type of accountability measures should be developed?

## **Delivery Systems**

How will private providers and local school districts be affected by new program standards or regulatory processes?

## **Funding**

What will be the costs associated with the new program? How will funds be allocated? How will funds flow from the state to individual providers? What is the current baseline for funding existing programs?



# Guiding Principles

- Given the time available before full implementation is required, the process should be methodical and questions should be thoroughly researched.
- Research and studies should, however, be conducted according to a set schedule with concrete deliverables. Studies should be used to improve, not delay, implementation. Decisions need to be made early enough in the process for proper planning to occur. The Pre-K curriculum should not be day care.
- The Department of Education should have the lead role in the development of program and curriculum standards.
- Program implementation should be sensitive to the need for a seamless continuum of care and education for children in the 0-4 age range. The existing connection between child care and Pre-K should not be disrupted in order to implement an improved Pre-K system.
- Private providers constitute a significant portion of existing Pre-K service providers. Voluntary universal Pre-K can not be implemented without private providers.

# Final Recommendations

## Governance

Utilize the current system as the base from which to work, but determine where improvements might be made, especially at the local level.

A new bureaucracy should not be created until the existing system is given the opportunity to determine its effectiveness.

Whereas the current education system is based on a seamless K-20 approach, there is an existing system for children ages 0-4. This system, which is still relatively new, has experience in providing coordination between day care and Pre-K services. This coordination will continue to be needed when universal Pre-K is implemented.

The current system also has the advantage of flexibility through local control. This flexibility will be valuable as the new Pre-K program is implemented.

The committee received testimony on some of the challenges faced by the Partnership for School Readiness and local coalitions. These groups should be reviewed, however, and their roles modified if necessary.

## Current System

- Agency for Workforce Innovation – Houses administration of School Readiness.
- Partnership for School Readiness – Responsible for state level policy
- Local Coalitions – Responsible for local policy.

OPPAGA should conduct a follow-up study on school readiness. This study should include alternative models of how to improve the existing school readiness system.

The original OPPAGA evaluation was conducted while the current system was beginning to be implemented. A follow-up study based on new data and a system that has more implementation experience would be valuable.

## **Time Factor**

In order to provide an organized implementation of voluntary universal Pre-K, a schedule for study and implementation should be established.

Because the program must be fully implemented by the beginning of the 2005 school year, there should be a methodical approach to study and legislative action.

A proposed schedule is:

- Prior to FY 2003-2004 – Enact legislation designating the basic existing governance framework and requiring that a study be conducted on any modifications needed to improve the capacity of the current system or to make this system more successful.
- Prior to FY 2004-2005 – Study completed; curriculum finalized by the Legislature; any modifications to the governance resolved by the Legislature; if funding is available, phase-in of Pre-K program by targeting needs-based candidates first.
- Prior to FY 2005-2006 – Full implementation required; mandatory review should be scheduled to determine effectiveness in time for 2006 session.

## **Program Design and Standards**

The Department of Education should recommend to the Legislature in time for the 2004 regular session options and recommendations for the program curriculum. The Department's report should take into consideration that there are a variety of successful curricula for Pre-K and that curriculum flexibility should be part of the program. The Department of Education should have a continuing role in the development of the program and curriculum.

While there are compelling reasons for continuing to house the program under the current governance structure, the Department of Education, as the state's lead agency on education in general, should play the key role in working to develop the program curriculum. The department should receive input from current Pre-K providers as it develops its proposals.

The department should advise the Legislature specifically as to the age appropriate number of hours each day and days per year that should be devoted to actual Pre-K education as opposed to day care options. This information will be important in helping to determine proper funding levels for the Pre-K program.

### Accountability

There must be a minimum threshold of certification standards for participation in the Pre-K program.

Given the pressures that will be placed on the current system of Pre-K providers due to the influx of new students and the potential for new providers to open their doors, there needs to be a minimum set of standards to protect the health and safety of the students.

Age appropriate outcome testing should be required and uniformly applied. The outcome measures should, at a minimum, indicate whether a 4-year old is ready to enter kindergarten. The current "School Readiness Uniform Screening" instrument could be used for this purpose. The results should be used to review the quality of the facilities and be considered in determining whether a facility should continue to be funded as a Pre-K provider.

A system of regular audits should be conducted to ensure that the most efficient measures are used and that fraud is identified.

### Delivery Systems

The new Pre-K program should have the participation of local school districts and private providers.

Having both school districts and private providers involved in the program ensures that parents will have a choice of options. The choice of a public

provider should always be available when the selection of local private providers is limited.

Current providers should continue to have opportunities to participate in the Pre-K system.

The capacity requirements of full implementation demand that private providers continue to have a major role.

## **Funding**

Funding should flow from the state partnership to the local coalitions for distribution in the most efficient manner, although current funding methodologies should be reexamined at the state level to ensure equity.

This item builds on the arguments presented in the governance recommendation and proposes that, despite the need for review and study, the current structure should be the basis for implementing universal Pre-K.

# **Amendment No. 6**

## **Workplace Smoking**

*Senate Select Committee on  
Constitutional Amendment Implementation*

**Amendment No. 6  
Workplace Smoking**

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**Background**

The amendment was written and supported by Smoke-Free for Health, Inc., a coalition of the American Cancer Society, the American Heart Association, and the American Lung Association. The amendment was adopted by 71 percent of the statewide vote. The Senate Select Committee on Constitutional Amendment Implementation addressed this issue on February 3, 2003.

The sponsors of the amendment were first to speak. These persons included Mr. Martin Larsen, Chairman of Smoke-Free for Health, Inc., and their legal counsel Justice Stephen Grimes, for the Florida Tri-Agency Coalition, which consists of the American Cancer Society, the American Heart Association, and the American Lung Association. The speakers provided the following handouts: Statement of sponsor's intent from Smoke-Free for Health, Inc., and American Medical Association Article, "Tourism & Hotel Revenues Before and After Passage of Smoke-Free Restaurant Ordinances."

The next speakers were from the Department of Business and Professional Regulation. These speakers provided an overview of how their divisions enforced the related statutes and the Florida Clean Indoor Air Act. These speakers were Patrick Parmer of the Division of Alcoholic Beverages and Tobacco and Jeff Luebke, Division of Hotels and Restaurants. Two PowerPoint presentation handouts were provided.

Finally, representatives of specific interest groups spoke. These speakers were: Ben Hill III for the Cigar Association of America (providing a 3-page statement); Scott Dick for the Retail Beverage Council and Florida Retail Federation (providing FRF Background Information); Dale Eggers, owner of "The Roadhouse" Sports Bar and for the Florida Retail and Beverage Council; John Berglund, Executive Director of the Bowling Proprietors of America; Richard Giese for the Joint Veterans Planning Group; Gigi Garber

Skipper, General Counsel for the Hillsborough County Aviation Authority (providing a PowerPoint presentation and legislative issues for 2003, Florida Airports Council); Ed Cooley for the Tampa International Airport; Gary Smith, Executive Vice-President of the Florida Hotel and Motel Association; Carol Dover, President and CEO of the Florida Restaurant Association; Jeff Grayson for the Florida Restaurant Association; Dave Reid for Ale House Restaurants; Shannon McAleavey for Darden Restaurants, Inc.; and Matt Halme for Outback Steakhouse, Inc.

Copies of these presentations and handouts may be obtained from the committee's web site at: [www.flsenate.gov/sci](http://www.flsenate.gov/sci)



# Questions & Issues

## **Stand-alone bars**

What are the possible options for criteria to be used in determining whether “the serving of food, if any, is merely incidental to the consumption of any such beverage”?

## **Enforcement**

Which state or local agencies should enforce the amendment? How should it be done? What should the penalties be?

## **Enclosed indoor workplace**

- What constitutes an “enclosed indoor workplace?” Does this term apply to an entire structure in which any work occurs or only to those spaces and connected common areas where work specifically occurs? Should the definition allow for the designation of an area within the overall structure as non-working, smoking areas? If so, what criteria should be established for these areas to protect the spirit of the amendment that no worker be involuntarily subjected to second-hand tobacco smoke?
- What constitutes “enclosed” and what, if anything, should be done to provide more detail on the physical boundary requirements of an enclosed indoor workplace?

## **Cigar & loose-leaf tobacco**

What impact does the amendment have on the continuation of the cigar and loose-leaf tobacco industries in Florida?

## **Work**

How does the term “work” relate to non-commercial activities conducted exclusively by the membership of community service groups, such as religious, fraternal, veteran, charitable, social, and other similar types of non-profit organizations?

# Guiding Principles

- The amendment clearly injects the Legislature into the role of defining how Amendment No. 6 is to be implemented and how terms within the amendment should be defined.
- The Legislature should approach this duty within the spirit of the amendment: to eliminate, with certain exemptions, the involuntary exposure of workers and consumers to second-hand tobacco smoke.
- Within the spirit of the amendment, implementation needs to be done in a practical manner that provides reasonable flexibility and minimizes costs and adverse impacts on those affected.
- Implementation should be equitable and exemptions applied consistently to similarly situated entities.

# **Final Recommendations**

## **Stand-alone bars**

The language relating to stand-alone bars which limits their service to food that is “merely incidental” to the service of alcohol is ambiguous, and the Legislature must establish some standard for what food products the amendment allows these bars to serve. Two possible standards were suggested: 1) an exhaustive list of food items that may be served in such bars; and 2) a percentage limitation on the amount of food that may be served.

The percentage approach is more practical. The allowable percentage of food service should be some percentage not to exceed 20 percent, should be measured against gross revenue from sales of alcoholic beverages, and should include a time period for measurement which is sufficiently long to establish an accurate picture of the bar’s overall business and income stream. However, even with a percentage limitation, the types of food served should be within the spirit of the amendment. Stand-alone bars should not be serving the same full menu of food items as restaurants.

## **Enforcement**

For stand-alone bars, enforcement should be accomplished through a complaint-driven system, similar to the special restaurant liquor license process, and no new bureaucracy should be established. For other situations, the amendment should be enforced by the same agencies, in the same manner, and using the same penalties used under the existing Florida Clean Indoor Air Act.

## **Enclosed indoor workplace**

- Because the amendment applies only to workplaces, the Legislature should implement legislation to clarify those situations where no work is performed and where a non-workplace may be designated. Consistent with the spirit and purpose of the amendment, the Legislature should enact measures to protect people from involuntary exposure to second-hand tobacco smoke from any such designated area: designation (signage), reserved times for cleaning and maintenance, separate ventilation systems

and negative pressure ventilation, and complete enclosure to avoid the escape of second-hand tobacco smoke into common areas.

- The amendment does not specify standards for when an enclosed indoor workplace is predominantly or totally bounded by physical barriers. The detail associated with defining these architectural standards is more appropriately a matter for consideration by the standing committees, rather than by this select committee. However, any standards should be set within the spirit of the amendment.

### **Cigar & loose-leaf tobacco**

Retail tobacco shops are expressly excepted from the constitutional amendment. It is a logical extension of this exception to conclude that smoking which is integral to the operation of the cigar manufacturing and loose-leaf tobacco industries in this state is not prohibited under the amendment.

### **Work**

The committee heard testimony that the amendment needed to be clarified as to its effect on the activities of certain member-driven, non-profit organizations. The committee recommends that consideration be given to clarifying that work does not include non-commercial activities conducted exclusively by the membership of community service or social organizations, such as religious, veterans, fraternal, charitable, and other non-profit groups. Legislation to provide this clarification should be drafted within the spirit of the amendment.